



*Legal & Liability Risk Management Institute*

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Acting Chief Luis Alvarez  
Fort Lauderdale Police Department  
1300 West Broward Blvd.  
Fort Lauderdale, FL. 33312

Dear Chief Alvarez,

The purpose of this letter is to outline my review, analysis and conclusions with respect to the deployment of a less-lethal munition by Officer Ramos on 5/31/2020 in the City of Fort Lauderdale.

I would note at the outset that numerous cities throughout the United States experienced both peaceful and violent protests/riots during this time frame as a result of the death of George Floyd in Minneapolis, Minnesota. Not surprisingly, there were numerous events where less-lethal munitions were deployed and law enforcement was subsequently criticized. I would note that I am currently reviewing a number of cases on behalf of persons who are bringing lawsuits against officers as well as reviewing cases on behalf of officers and agencies who deployed the less-lethal munitions.

By way of a short background I would note that I have been qualified by Federal Courts throughout the United States as a use of force expert. My cases have included lawsuits involving protests, violent protests, and riots. I have provided training to law enforcement agencies at the Federal, State, and Local levels on the topic of the proper law enforcement response to peaceful protests, violent protests, and riots. This training has included the use of force component, including when it is consistent with the law and best practices to utilize less-lethal munitions.

I have reviewed the following materials related to the events of May 31, 2020:

34-2005-085530 reports and supplements

***Witness Statements***

D. Knapp 12.7.20  
L Collins 12.11.20  
A. Figueras 12.8.20  
A. Lebron 12.7.20  
C. Herbert 12.10.20  
R. Dietrich 12.8.20  
D. Rose 12.3.20  
D. Soika 12.10.20

L. Reyes 12.7.20  
P Cristafaro 12.10.20  
R. Magno 12.02.20  
R. Rodriquez 12.10.20  
S. Silver 12.2.20  
T O'Neal 12.3.20

***Evidence Package 1 of 5***

(Clip\_1.1)\_Trash\_Can\_Explosion-Desir\_BWC.mp4  
(Clip\_2.2)\_Baro-Reviewed\_for\_Public\_Release.mp4  
(Clip\_3.1)\_Baro-Reviewed\_for\_Public\_Release.mp4  
911\_CALLS.mp3  
Baro-Reviewed\_for\_Public\_Release.mp4  
BLM\_Alliance\_Group1.mp4  
BLM\_Alliance\_Group2.mp4  
CBS\_Sunday\_Morning\_PR\_Request.mp4  
Clipped\_for\_PR\_Request-2.mp4  
Clipped\_for\_PR\_Request-3.mp4  
Clipped\_for\_PR\_Request-4.mp4  
Clipped\_for\_PR\_Request-5.mp4  
Clipped\_for\_PR\_Request.mp4  
DISPATCH.mp3  
Evan\_Ross\_Ratliff\_Twitter\_Video\_Screen\_Grab.mp4  
Exploding\_Trash\_Can.mp4  
FLPD\_PROTEST\_BREAKDOWN.xlsx  
hebert\_01.jpeg  
Herald\_Request-Ramos.mp4  
herbert3.jpeg  
herbert\_2.jpeg  
Man\_with\_possible\_injury.mp4  
O'Neal\_BWC\_Crowd\_during\_trash\_can\_explosion.mp4  
Reviewed\_for\_Pubic\_Release.mp4  
Reviewed\_for\_Public\_Release-10.mp4  
Reviewed\_for\_Public\_Release-11.mp4  
Reviewed\_for\_Public\_Release-12.mp4  
Reviewed\_for\_Public\_Release-13.mp4  
Reviewed\_for\_Public\_Release-14.mp4  
Reviewed\_for\_Public\_Release-15.mp4  
Reviewed\_for\_Public\_Release-16.mp4  
Reviewed\_for\_Public\_Release-17.mp4  
Reviewed\_for\_Public\_Release-18.mp4  
Reviewed\_for\_Public\_Release-19.mp4  
Reviewed\_for\_Public\_Release-2.mp4  
Reviewed\_for\_Public\_Release-3.mp4  
Reviewed\_for\_Public\_Release-4.mp4  
Reviewed\_for\_Public\_Release-5.mp4  
Reviewed\_for\_Public\_Release-6.mp4

Reviewed\_for\_Public\_Release-7.mp4  
Reviewed\_for\_Public\_Release-8.mp4  
Reviewed\_for\_Public\_Release-9.mp4  
Reviewed\_for\_Public\_Release-Civil\_Disturbance.mp4  
Reviewed\_for\_Public\_Release-Protest.mp4  
Reviewed\_for\_Public\_Release.mp4  
Reviewed\_for\_Public\_Releaset.mp4  
Reviewed\_for\_Public\_Request-2.mp4  
Reviewed\_for\_Public\_Request.mp4  
Shoes-Brignoni's\_BWC.mp4  
Shoes-Hodge's\_BWC-times\_8\_sec,\_57sec,1\_05,\_1\_17\_.mp4  
Trash\_Can\_Explosion-Desir\_BWC.mp4  
Trash\_can\_explosion-Flores\_BWC.mp4  
Twitter\_Video\_Screen\_Capture.mp4  
Twitter\_Video\_Screen\_Grab\_(Nick\_Nehamas).mp4  
YouTube\_Video\_chb2.mp4  
YouTube\_Video\_from\_chb2.mp4  
YouTube\_Video\_of\_5.31.2020\_Protest\_Screen\_Grab.mp4  
YouTube\_Video\_of\_5.31.2020\_Protest\_Screen\_Grab\_2.mp4  
Southside West View.mp4  
South Lobby ENT.mp4  
Parking ENT/EXIT.mp4

***Evidence Package 2 of 5***

Clipped for PR Request  
Clipped for PR Request - 2  
Clipped for PR Request - 3  
Clipped for PR Request - 4  
Clipped for PR Request - 5  
Clipped for PR Request - 6

***Evidence Package 3 of 5***

Civil Disturbance  
Clipped for PR Request  
Clipped for PR Request - 2  
Clipped for PR Request - 3

***Evidence Package 4 of 5***

Clipped for PR Request  
Clipped for PR Request - 2  
Clipped for PR Request - 3  
Clipped for PR Request - 4

***Evidence Package 5 of 5***

Clipped for PR Request  
Clipped for PR Request - 2  
Interview of Sergeant R. Smith  
Interview of Officer G. Baker  
Interview of Officer A. Lebron  
Interview of Officer A. Finnerty

Specs for Munitions used on 5.31.20  
Policy 119.3 - Response to Resistance Changes 6.22.20  
Policy 119.3 - Response to Resistance Changes 9.17.20  
Policy 119.1 - Response to Resistance Changes 12.18.20  
Interview of LaToya Ratlieff  
Interview of Detective Derek Lade  
Interview of Detective Eliezer C. Ramos

The scope of my analysis is limited to the deployment of a less-lethal round that struck Ms. Ratlieff in the face causing injury on 5/31/2020 at Southeast 1<sup>st</sup> Avenue and Southeast 2<sup>nd</sup> Street. That said, I have reviewed hours of video and documents related to the overall events of 5/31/2020.

The two major components of my analysis are:

1. Was Officer Ramos actions in deploying the 40 mm round consistent with generally accepted policies, practices, training and legal mandates trained to officers for application in field operations during a protest/riot?
2. In light of the field environment that included a large number of peaceful protesters and violent rioters, was the deployment reckless or unreasonable, in accord with generally accepted policies, practices, training, and legal mandate trained to officers for application in field operations during a protest/riot?

In reading through statements by supervisors and officers and reviewing video, it is clear that there were two distinct protests on May 31, 2020. The first event, a protest outside the police station followed by a march to Huizenga Park, where organizers closed out the event was by most accounts peaceful and structured. (See e.g. Statement of Lt. Figueras).

As with many protests there is sometimes a triggering event that changes the crowd dynamic. It is clear that the event escalated when Officer Stylianee Hayes came over the radio and reported that protestors had her police vehicle surrounded and that she was trapped. Additionally, it was reported that the protestors were causing damage to Hayes's vehicle.

Officer Hayes's call for help prompted the response of the Mobile Field Force and the Quick Reaction Team to Southeast 2<sup>nd</sup> Street and Southeast 1<sup>st</sup> Avenue. Through officer statements and recorded videos it is clear that some members of the crowd were throwing rocks, bottles, fireworks/explosives at the officers. It is noted that officers reported being struck by objects including Captain Dietrich, who reported being struck in a manner that caused his knees to buckle.

A line was initially formed in the intersection, however Captain Dietrich, moved officers back under the overhang of the garage due to items being thrown from above.



It is noted that Officer Ramos was assigned to the SWAT team and was assigned with a 40 mm, single-shot launcher. The SWAT officers were assigned to engage those persons who were committing criminal acts by throwing dangerous items at the officers.

Just before Ms. Ratlieff was hit with the less-lethal round an unknown subject (Unsub 1) can be seen on video moving toward a canister deployed by the police.







It is clear that Unsub 1 then picked up the canister throwing it high in the air toward the police line.







As Unsub 1 walks away after throwing the canister it is clear that he is moving in the same direction that Ms. Ratlieff moved.







It is as Unsub1 and Ms. Ratlieff come into the same line, that Ms. Ratlieff who was stepping off the curb gets hit and goes down to the ground.





A review of Officer Ramos statement makes clear that he was targeting Unsub1 and did not see Ms. Ratlieff until she was struck.

1. Was Officer Ramos actions in deploying the 40 mm round consistent with generally accepted policies, practices, training and legal mandates trained to officers for application in field operations during a protest/riot?

Officers throughout the United States are trained in two formulas with respect to use of force decision-making and justification. The first of these formulas is a three-part test that parallels the mandates announced by the United States Supreme Court in *Graham v. Connor*.<sup>1</sup> The training directs officers to consider the seriousness of offense; whether or not the subject poses an immediate physical threat to the officer or anyone else; and finally whether the subject is actively resisting or attempting to evade arrest by flight.

I would note that the FLPD "Response to Resistance Policy" is a *Graham* based policy that incorporates the three part test.

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<sup>1</sup> This formula is derived from *Graham v. Connor*, 490 U.S. 386 (1989) and can be found in law enforcement training lesson plans as well as Use of Force policies throughout the United States. See e.g. International Association of Chiefs of Police, Use of Force Model Policy 2005, IACP Model Policy Center, Virginia 2005.

The video in this case makes clear that Unsub1 was committing a serious and violent offense against officers that any officer would conclude created a serious physical threat to the officers on the line who could be struck by the canister. Unsub1 movements following the throw could be viewed as an attempt to evade or in the alternative, a movement to find other objects to throw at law enforcement. Clearly, based on the foregoing, any reasonable and well-trained officer would conclude that the use of a less-lethal 40 mm round from a distance of more than 20 feet to stop the serious and threatening conduct would be consistent with policies, practices, training as well as legal mandates trained to officers on use of force.

The second formula was commonly referred to as the “Use of Force Continuum.” While agencies utilize different force continuum models, all of the models recognize that officers have various subject control tactics available to them and that these tactics range from a low-level intrusion, such as officer presence and verbal commands, to the highest level, which is deadly force. It should be recognized that even in those agencies that still use a force continuum, the continuum is not a ladder that must be climbed step by step. Instead it is a presentation of various force options, each of which must be objectively reasonable under the circumstances with which the officer is faced. It is noted that due to confusion over application of such continuums, law enforcement is moving away from this concept and simply train “force options.” It is recognized that many law enforcement agencies are moving away from the so-called “continuum” and moving toward a “Graham” decision-making model.

Based on the actions of Unsub1 in throwing a hardened canister with gas back at officers, likely the forcible felony of aggravated assault, the use of a 40 mm round would be proportional to the conduct of Unsub1. As such, the actions of Officer Ramos in deploying a less-lethal 40 mm round while targeting Unsub1 was consistent with generally accepted policies, practices, training and legal mandates trained to officers for application in field operations during a protest/riot.

2. In light of the field environment that included a large number of peaceful protesters and violent rioters, was the deployment reckless or unreasonable, in accord with generally accepted policies, practices, training, and legal mandate trained to officers for application in field operations during a protest/riot?

While it is always tragic when an innocent third party is struck by a less-lethal round it has long been recognized that such actions are accidents and not a use of force as to the bystander. In order for there to be a use of force, there must be a stopping of movement by a means intentionally applied.<sup>2</sup> Based upon the statements, the video, and having found no evidence to the contrary, it is my conclusion that Officer Ramos’s deployment which struck Ms. Ratlieff was an accident.

There are some factors that I considered in reaching my conclusions in this review. The chaotic nature of the events was one. It is clear from the video that at the time when Ramos deployed there were violent protestors throwing various dangerous objects at officers to include Unsub1

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<sup>2</sup> *Brower v. Cty. of Inyo*, 489 U.S. 593, 109 S. Ct. 1378 (1989).

who clearly threw the canister toward the officers. I would note that while Ramos was trained to fire a weapon with a gas mask and helmet on, this equipment, for anyone who has trained or used it in the field recognizes that it makes a number of tasks more difficult. I would also note that Officer Ramos noted in his statement that he identified the concrete wall behind Unsub1 which provided a clear backdrop if his deployment missed and went beyond Unsub1.

Another significant factor in any law enforcement response to an assault or a threat, is that there is a recognized reactionary gap that occurs in the time it takes to Observe a threat, Orient to the threat, Decide on the appropriate response, and then Act or carry out the response. Although this reactionary gap is short, everything that is in movement can change position during the gap.

Law enforcement has recognized that human reaction to a perceived threat is 0.75 to 0.8 of a second.<sup>3</sup> I note that in my own experience in conducting stimulus related shooting drills, whether to threat versus non-threat targets, or simply pre-identified stimulus i.e. whistle to commence and whistle to cease firing, the physical lag time at both ends of the shooting cycle was consistent with the reported findings. This physical lag time does not change based on the weapon system being used to respond to a threat.

Common defensive tactics programs offered to law enforcement as well as law enforcement related texts indicate that even a subject running from an officer can turn and fire two shots before the officer would be able to react.<sup>4</sup> It is well known in law enforcement that the physical lag time between an officer's perception of a threat and the response to the threat in many cases will put the suspect in a different position. The concept is well known in law enforcement and is consistent the Military's OODA Loop training which reflects that a person must first Observe the threat, then Orient to the threat, then Decide what action to take, and finally must Act.<sup>5</sup> It is well recognized that a threat can be carried out or positions will be changed during the time it takes an officer to cycle through this process.

It is clear from the video, as evidenced by the screen captures above, that everything was in movement as Officer Ramos responded to the assault by Unsub1. Unfortunately, the movements of both Ms. Ratlieff and the assailant caused the two to cross paths at the same time that Officer Ramos deployed the less-lethal round at Unsub1 who was on the sidewalk.

While it is unfortunate that Ms. Ratlieff, a peaceful protestor was struck, it was neither unreasonable nor reckless for Officer Ramos to deploy the 40 mm round in this environment at a subject who was throwing dangerous items at law enforcement officers. The 40 mm round is more exact than the use of OC/Pepperball dispersal agents and thus can be directed at a targeted individual who is committing a crime. In cases where the round hits the intended target there is no effect on others around the targeted individual. This is exactly what the 40 mm round is intended for and why it is effective in this type of environment.

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<sup>3</sup> "Physical Lag Times and Their Impact on Deadly Force," The Tactical Edge Magazine, Spring 1995, Lieutenant Michael Hillman (LAPD), P. 28. Hillman noted that the sum total of physical lag time ( perception time plus brain lag plus reaction time) is generally between 0.75 and 1.0 seconds.

<sup>4</sup> See e.g. Deadly Force Constitutional Standards, Federal Policy Guidelines, and Officer Survival, John Michael Callahan, Jr. Looseleaf Publications, Flushing, N.Y. 2001

<sup>5</sup> OODA Loop Model was first developed by Colonel John Boyd USAF during the Korean war.



If I can be of further assistance, do not hesitate to contact me.

Sincerely,

*John J. Ryan*

John J. Ryan  
Co-Director-LLRMI

